

REMARKS

Claims 25-27 and 29-32 are all the claims pending in the application.

Specifically, the Examiner rejects claims 25 and 26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,236,148 (the '148 patent). Further, the Examiner rejects claims 25 and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,768,249 (the '249 patent). Claims 27 and 30-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims. The outstanding rejections are addressed below.

Obviousness-type Double Patenting Rejections

As previously indicated, claims 25, 26 and 29 stand rejected on obviousness-type double patenting grounds. To overcome the obviousness-type double patenting rejections, Applicant submits herewith a Terminal Disclaimer with respect to the '148 patent and the '249 patent. Applicant notes that the filing of the Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is submitted that obviation of the double patenting rejections by submission of the Terminal Disclaimer should not be construed as an admission or acquiesce or estoppel on the merits.

Accordingly, claims 25, 26 and 29 are believed to be in condition for allowance, and claims 27 and 30-32, which the Examiner previously indicated as containing allowable subject matter, are likewise believed to be allowable.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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CUSTOMER NUMBER

Date: November 17, 2005